

## Message Text

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ORIGIN EB-03

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EB/OA - MR. MEADOWS (SUBS)

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R 241801Z DEC 74

FM SECSTATE WASHDC

TO AMEMBASSY LIMA

C O N F I D E N T I A L STATE 280999

LIMDIS

E.O. 11652: GDS

TAGS: EAIR, PE

SUBJECT: CIVAIR - UPCOMING CONSULTATIONS

1. DEPARTMENT HAS BEEN REVIEWING WITH CAB AND BRANIFF OVERALL QUESTION OF US-PERU AIR TRANSPORT RELATIONS, IN TERMS OF BOTH UPCOMING CONSULTATIONS AND LONG-RANGE OBJECTIVES. WE BELIEVE THAT, UNLESS GOP PREPARED NEGOTIATE ISSUES ON ACCEPTABLE BASIS, STRONG COUNTER ACTION ON PART OF USG MUST BE BOTH THREATENED AND, IF NECESSARY, CARRIED OUT. WOULD APPRECIATE EMBASSY'S COMMENTS ON FOLLOWING ANALYSIS.

2. DURING NOVEMBER TALKS, GOP ADOPTED UNCOMPROMISING ATTITUDE AND DID NOT INDICATE ANY INTEREST IN NEGOTIATED SOLUTION. WORKING GROUP DISCUSSION BETWEEN AIRLINES ON DECEMBER 12 GOT NO WHERE FOR SAME REASON. ESSENTIALLY, GOP POSITION IS THAT:

A. BRANIFF WILL NOT OPERATE MORE THAN 15 FLIGHTS BETWEEN  
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US AND LIMA (COMPARED WITH 20 AT PRESENT), OF WHICH

NO MORE THAN 7 MAY SERVE MIAMI (COMPARED WITH 16 SOUTHBOUND AND 13 NORTHBOUND AT PRESENT). FLIGHTS BEYOND LIMA WILL BE REDUCED FROM 14 TO ONE.

B. BRANIFF WILL PAY TAX ON ALL TICKETS SOLD IN PERU FOR NON-COMPETITIVE ROUTE SEGMENTS.

3. WE EXPECT GOP TACTICS WILL BE TO CONTINUE TO MAINTAIN FOREGOING POSITION, POSSIBLY OFFERING MINOR ADJUSTMENTS TO "ACCOMMODATE" BRANIFF OPERATIONAL PROBLEMS BUT WITH NO SIGNIFICANT IMPROVEMENTS FROM US POSITION. ONCE IT HAS REDUCED BRANIFF TO NEW LOW LEVELS, IT WILL LATER DEMAND NEW YORK RIGHTS, THUS ATTEMPTING TO FORCE US TO BUY BACK WHAT BRANIFF EARLIER HAD.

4. WE ALSO BELIEVE THAT, BASED ON THE GOP SUCCESS LAST JULY IN FORCING US TO MAKE CHANGES IN AEROPERU PERMIT AND FACT US THEN DID NOTHING WHEN GOP ISSUED RESTRICTIVE PERMIT TO BRANIFF, GOP MAY BELIEVE US WILL NOT RETALIATE IF GOP STICKS TO ITS UNCOMPROMISING POSITION. IF WE HAVE ANY EXPECTATION OF PRESSING FOR A SOLUTION WHICH MEETS OUR INTERESTS, WE MUST CHANGE THE GOP ASSUMPTION THAT WE DARE NOT RETALIATE.

5. AFTER REVIEWING OPTIONS, WE BELIEVE THAT, IF GOP CONTINUES REFUSE BUDGE, WE WOULD TAKE POSITION THAT GOP ACTIONS HAVE TURNED AIR TRANSPORT AGREEMENT INTO A USELESS INSTRUMENT, THAT US CANNOT CONDUCT AIR TRANSPORT RELATIONS WITH PERU ON LATTER'S TERMS, AND THAT ACCORDINGLY US PROPOSES THAT AIRLINES BE GIVEN 90 DAYS TO SUSPEND ALL THEIR SERVICES BETWEEN TWO COUNTRIES. IF GOP DOES NOT AGREE, OR DOES NOT THEN BEGIN NEGOTIATE IN GOOD FAITH, WE WOULD INFORM GOP THAT US WILL TAKE STEPS UNILATERALLY TO SUSPEND SERVICES BY BOTH AIRLINES. IT MAY IN FACT BE NECESSARY TO INTIMATE FOREGOING RESULT EARLY IN NEGOTIATIONS IN ORDER TO TEST FULLY WHETHER THERE IS ANY GIVE IN GOP POSITION.

6. THE ALTERNATIVE OF CUTTING AEROPERU BACK TO, FOR EXAMPLE, 3 OR 4 FLIGHTS A WEEK IN RETALIATION FOR CUTS  
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CONTAINED IN BRANIFF PERMIT HAS DISADVANTAGE THAT PERU MIGHT ACCEPT RESULTING SITUATION. MORE LIKELY, IT WOULD COUNTER WITH FURTHER LIMITATIONS ON BRANIFF. IN EITHER EVENT, IT SEEMS TO US BETTER TO GO TO GROUND ZERO FROM THE BEGINNING.

7. DEPARTMENT RECOGNIZES, AND WE BELIEVE BRANIFF DOES ALSO, THAT IF SERVICES ARE SUSPENDED US MUST BE ABLE

AND WILLING TO HOLD OUT FOR AN EVENTUAL SETTLEMENT WHICH WOULD BE BETTER THAN CURRENT GOP POSITION. WHILE BRANIFF WOULD LOSE MORE IN TERMS OF ABSOLUTE REVENUE THAN AEROPERU DURING SUSPENSION PERIOD, IT IS NOT SOLELY DEPENDENT ON PERU WHEREAS AEROPERU MUST BE STRONGLY DEPENDENT ON SERVING US. MOREOVER, BECAUSE THERE WILL BE TOTALLY INADEQUATE US-PERU AIR SERVICE, PERU SHOULD FEEL PINCH IN

TOURISM TERMS. WE QUITE AWARE, ON OTHER HAND, THAT PERUVIANS PROBABLY CAPABLE OF HARA KARI.

8. WE ARE ALSO CONSIDERING FURTHER QUESTION OF MINIMUM ACCEPTABLE NEGOTIATED SOLUTION. POSITION WE WERE PREPARED ADVANCE IN NOVEMBER TALKS WAS NOT FULLY ARTICULATED BECAUSE PERU DELEGATION NEVER ASKED FOR NEW YORK. WE WOULD THEREFORE PLAN INITIALLY TO PRESENT US POSITION ROUGHLY AS FOLLOWS.

A. SPECIFY MINIMUM FREQUENCY LEVELS AND ROUTINGS FOR BRANIFF. WE WOULD PROBABLY OVERSTATE THESE FOR BARGAINING PURPOSES.

B. OFFER PRESCREENING-TYPE ARRANGEMENT TO COVER FUTURE FREQUENCY INCREASES.

C. OFFER CONSIDER SOME FORM OF "COMPENSATION" ON DIFFERENTIAL BETWEEN BRANIFF AND AEROPERU'S SERVICES ON COMPETITIVE ROUTE SEGMENTS, WITHOUT IMPLYING OUR ACCEPTANCE OF TAX AS "COMPENSATION".

D. IF REQUESTED, RIGHTS AT NEW YORK.

9. IF GOP NOT WILLING NEGOTIATE ON ACCEPTABLE BASIS  
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WE WOULD, DEPENDING ON CIRCUMSTANCES AT THE TIME, PROPOSE EITHER PRESERVING STATUS QUO FOR SOME PERIOD OF TIME OR FURTHER AIRLINE TALKS. PURPOSE OF LATTER WOULD BE TO GIVE BRANIFF OPPORTUNITY TRY TO REACH AGREEMENT WITH AEROPERU ON BLOCKED SPACE ARRANGEMENTS UNDER WHICH BRANIFF WOULD SELL TO AEROPERU AT COST NUMBER OF SEATS ON SOME OR ALL OF ITS FLIGHTS WHICH AEROPERU WOULD SELL TO PUBLIC AS IF IT WERE ACTUALLY OPERATING AIRCRAFT. WHILE THERE MAY BE SOME QUESTION WHETHER BRANIFF COULD ACTUALLY OFFER A JOINT OPERATION IN VIEW US REGULATORY CONSTRAINTS, IT MAY BE POSSIBLE FOR SUCH AN ARRANGEMENT TO BE CLOSE TO A JOINT OPERATION ON SOME FLIGHTS. IN EFFECT, BLOCKED SPACE WOULD BE THE "COMPENSATION" REFERRED TO IN PARA 6(C) ABOVE AND WOULD BE IN LIEU OF TAX. KISSINGER

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